

METROPOLITAN AREA PLANNING COMMISSION

MINUTES

October 5, 2006

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, October 5, 2006, at 1:30 P.M., in the Planning Department Conference Room, 10th floor, City Hall, 455 North Main, Wichita Kansas. The following members were present: Harold Warner Jr., Chair; Darrell Downing, Vice-Chair; John W. McKay Jr.; Bill Johnson; Bob Aldrich; Elizabeth Bishop; M.S. Mitchell; Don Anderson; Bud Hentzen; Ronald Marnell; Hoyt Hillman and Michael Gisick. Denise Sherman and Morris Dunlap were not present. Staff members present were: John L. Schlegel, Secretary; Dale Miller, Current Plans Manager; Donna Goltry, Principal Planner; Neil Strahl, Senior Planner; Bill Longnecker, Senior Planner; Jess McNeely, Senior Planner and Maryann Crockett, Recording Secretary.

1. Approval of September 21, 2006 MAPC minutes.

DOWNING stated that approval of the minutes would be tabled until the next meeting due to administrative issues.

❖ SUBDIVISION ITEMS

Item 2-1 to 2-3 may be taken in one motion unless there are questions or comments.

2. Consideration of Subdivision Committee recommendations from the meeting of September 28, 2006.

2-1. SUB 2005-15: Revised One-Step Final Plat -- M A A ADDITION, located east of Broadway and on the south side of 43rd Street South.

NOTE: This is an unplatted site located within the City. The site has been approved for a zone change (ZON 2004-24) from SF-5, Single-Family Residential and LC, Limited Commercial to LI, Limited Industrial. A Protective Overlay (P-O #142) was also approved for this site addressing screening and lighting. The site is located within the 100-year floodplain.

This revised plat contains six lots to be served by an internal street.

STAFF COMMENTS:

- A. The applicant shall guarantee the extension of City water and sanitary sewer to serve the site.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. **City Engineering** needs to comment on the status of the applicant's drainage plan. **The drainage concept is approved subject to revisions.**
- D. The Applicant is advised to contact Riverside Drainage District concerning drainage to Riverside drainage canal (Roscoe Sanborn, Riverside Drainage District, 130 W. 45th South, Wichita, KS 67216, 524-6135). **An off-site drainage agreement will be needed. Verification from the Riverside Drainage District is needed regarding their ownership and maintenance of Reserve B. The plat text should state Reserve B is owned and maintained by the Riverside Drainage District or other Governing Authority. A 20' drainage easement is to be included on the plat between lots 2 & 3. Blk B.**
- E. **The applicant shall provide a guarantee for the paving of 43rd St. South to industrial street standards.**
- F. The Applicant shall guarantee the paving of the proposed internal street to the industrial street standard.
- G. **Traffic Engineering** requests complete access control along Broadway.
- H. **Traffic Engineering** needs to comment on the need for additional right-of-way along Broadway. The Subdivision Regulations require a 60-ft half-street right-of-way width along urban arterials. **The 50-ft street right-of-way is approved.**
- I. This property is within a zone identified by the City Engineers' office as likely to have groundwater at some or all times within 10 feet of the ground surface elevation. Building with specially engineered foundations or with the lowest floor opening above groundwater is recommended, and owners seeking building permits on this property will be similarly advised. More detailed information on recorded groundwater elevations in the vicinity of this property is available in the City Engineers' office.
- J. A PO Certificate shall be submitted to MAPD prior to City Council consideration, identifying the approved PO and its special conditions for development on this property.
- K. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- L. The plat text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- M. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per

the direction and approval of the Chief of the Fire Department.)

- N. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- O. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- P. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- Q. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- R. Perimeter closure computations shall be submitted with the final plat tracing.
- S. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- T. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property. Westar Energy has requested additional easements.
- U. The applicant is reminded that a compact disc (CD) shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD, or sent via e-mail to MAPD (cholloway@wichita.gov). This will be used by the City and County GIS Department.

MOTION: To approve subject to staff recommendations.

McKAY moved, **HILLMAN** seconded the motion, and it carried (12-0).

- 2-2. **SUB 2006-86: One-Step Final Plat -- GOLDEN CORRAL ADDITION**, located west of Greenwich Road and on the north side of Kellogg.

NOTE: This is an unplatted site located within the City.

STAFF COMMENTS:

- A. Sewer services are available. The applicant shall guarantee the extension of City water to serve the site.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. **City Engineering** needs to comment on the status of the applicant's drainage plan. **The drainage plan is approved. The 10' utility easement shown on the plat along the north property line needs to be labeled as a 20' drainage and utility easement.**
- D. A copy of the ingress/egress easement to the west that provides access to Lot 1 shall be provided.
- E. Provisions shall be made for ownership and maintenance of the proposed reserves. A covenant shall be submitted regarding ownership and maintenance responsibilities.
- F. For those reserves being platted for drainage purposes, the required covenant that provides for ownership and maintenance of the reserves, shall grant to the appropriate governing body the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- G. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- H. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- I. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- J. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges

the signatures on this plat, to be printed beneath the notary's signature.

- K. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- L. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- M. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- N. Perimeter closure computations shall be submitted with the final plat tracing.
- O. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- P. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property. Westar Energy has requested additional easements.
- Q. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

MOTION: To approve subject to staff recommendations.

McKAY moved, **HILLMAN** seconded the motion, and it carried (12-0).

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- 2-3. SUB 2006-88: One-Step Final Plat -- OAK CREEK 3RD ADDITION** located south of 21st Street North and west of Greenwich Road.

NOTE: This is a replat of Lot 12, Block 2 and Reserve K, Block 2 of the Oak Creek 2nd Addition, in addition to Lots 5-7, Block 3 of the Oak Creek Addition. The Oak Creek Community Unit Plan (CUP 2004-09, DP-274) was also approved for this site.

STAFF COMMENTS:

- A. The applicant shall guarantee the extension of City water and sanitary sewer to serve the lots being platted.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. City Engineering needs to comment on the status of the applicant's drainage plan. The drainage plan is approved. A Reserve may be needed if portions of lots are located within the Floodway.
- D. The lots (within blocks 1 and 2) shall be renumbered and included within one block.
- E. The applicant shall guarantee the paving of the private streets (Reserves A and B) to a public street (29-foot) paving standard. As private improvements, such guarantee shall not be provided through the use of a petition.
- F. A covenant shall be submitted regarding the private streets, which sets forth ownership and maintenance responsibilities. The plat's text shall reference the platting of the reserves for private street purposes.
- G. The reserves being platted as private streets shall be labeled as private streets and shown appropriate street names. Chateau Ct shall be the west private street name. Oak Creek Ct shall be the east private street name.

The applicant has requested Glengate Ct for the east private street and will meet with GIS to review.

- H. In accordance with the KS Wetland Mapping Conventions under the Memorandum of Understanding between the USDA-NRCS; USEPA; USACE; and USF&WS, this site has been identified as one with potential wetland hydrology. The US Army Corps of Engineers (USACE) should be contacted (316-322-8247) to have a wetland determination completed.
- I. Since this is a replat of a previous Addition involved with the ownership and maintenance of reserves for that Addition, but not being replatted by this Addition, the above covenants and/or other legal documents shall be provided which provides for this Addition to continue to share in the ownership and maintenance responsibilities of any such previously platted reserves.
- J. If any of the intended recreational uses for the reserves includes a swimming pool, "neighborhood swimming pool" shall be specified in the plat's text and a site plan shall be submitted with the final plat, for review and approval by the Planning Director. The site plan shall include the information indicated in the Subdivision Regulations. If there is a swimming pool to be built, the design for the pool must be submitted to Environmental Services for review prior to issuing a building permit for the

pool.

- K. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- L. For those reserves being platted for drainage purposes, the required covenant that provides for ownership and maintenance of the reserves, shall grant to the appropriate governing body the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- M. A CUP adjustment may be needed so that perimeter of the proposed residential block matches the perimeters of the CUP parcel boundaries.
- N. A note shall be placed on the final plat, indicating that this Addition is subject to the conditions of the Oak Creek Community Unit Plan (CUP 2004-09, DP-274).
- O. The applicant shall submit a covenant, which provides for four (4) off-street parking spaces per dwelling unit on each lot, which abuts a 32-foot street. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.
- P. The applicant shall submit an avigational easement covering all of the subject plat and a restrictive covenant assuring that adequate construction methods will be used to minimize the effects of noise pollution in the habitable structures constructed on subject property.
- Q. A CUP Certificate shall be submitted to MAPD prior to City Council consideration, identifying the approved CUP and its special conditions for development on this property.
- R. The parking easements shall be referenced in the plat's text specifying that the easements are granted for residential parking only and that no obstructions shall be constructed or placed within the easements.
- S. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- T. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- U. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- V. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- W. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- X. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- Y. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- Z. Perimeter closure computations shall be submitted with the final plat tracing.
- AA. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- BB. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property. Westar Energy has requested additional easements.
- CC. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

MOTION: To approve subject to staff recommendations.

McKAY moved, **HILLMAN** seconded the motion, and it carried (12-0).

❖ **PUBLIC HEARINGS – VACATION ITEMS**
ADVERTISED TO BE HEARD NO EARLIER THAN 1:30 P.M.

3. VAC 2006-34: Request to Vacate a Portion of a Platted Alley.

APPLICANT/OWNER: Mennonite Housing

LEGAL DESCRIPTION: Generally described as the platted 10-foot wide alley ROW located between Lots 7-11 and Lot 35, all in the Solomon's 2nd Addition, Wichita, Sedgwick County, Kansas

LOCATION: Generally located midway between 1-135 and Grove Avenue, north of 9th Street, on the west side of Madison Avenue (WCC #I)

REASON FOR REQUEST: Redevelopment of the site, associated with CON2006-38

CURRENT ZONING: The site is a platted alley, all abutting and adjacent properties are zoned "TF-3" Duplex Residential

The applicant is requesting vacation of the described portion of the platted 10-foot wide alley. This is the east portion of the west-east alley that runs from Madison Avenue to Ash Avenue. This alley is intersected by a north-south alley that runs from 10th Street to its intersection with the west-east alley. The vacation request will not result in a dead end alley. There is Westar equipment, a manhole and sewer line in this portion of the alley, but no water lines. This vacation request is associated with CON2006-38; a Conditional Use request to allow a maximum of 14.5 units on "TF-3" zoned sites, located on both sides of Madison Avenue, between 9th and 10th Streets. CON2006-38 will be considered at the MAPC's October 5, 2006 public hearing meeting. The Solomon's 2nd Addition was recorded with the Register of Deeds April 22, 1910.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works, franchised utility representatives and other interested parties, Planning Staff recommends approval to vacate the portion of the platted alley ROW, as described with conditions.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time September 14, 2006 which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the above-described portion of platted alley ROW and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of the portion of the platted alley ROW described in the petition should be approved with conditions:
- (1) Retain the 10-foot wide alley as an easement and dedicate an additional 10-foot of easement. Provide the original easement dedicated by separate instrument to Planning Staff, which will be sent with the Vacation Order to the WCC for recording with the Register of Deeds. The dedication must be provided to Staff prior to the vacation request goes to the WCC for final action and completion of the vacation request.
 - (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicants.
 - (3) All improvements, including drives onto public right-of-way, shall be according to City Standards and at the applicant's expense.
 - (4) All conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County or franchised utilities and recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Retain the 10-foot wide alley as an easement and dedicate an additional 10-foot of easement. Provide the original easement dedicated by separate instrument to Planning Staff, which will be sent with the Vacation Order to the WCC for recording with the Register of Deeds. The dedication must be provided to Staff prior to the vacation request goes to the WCC for final action and completion of the vacation request.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicants.

- (3) All improvements, including drives onto public right-of-way, shall be according to City Standards and at the applicant's expense.
- (4) All conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County or franchised utilities and recorded with the Register of Deeds.

MOTION: To approve subject to staff recommendations.

ALDRICH moved, **ANDERSON** seconded the motion, and it carried (12-0).

❖ **PUBLIC HEARINGS**
ADVERTISED TO BE HEARD NO EARLIER THAN 1:30 P.M.

4. **Case No.: ZON2006-00037** – St. Albans Episcopal Church (applicant); PEC c/o Rob Hartman (agent) Request Zone change from "SF-5" Single-family Residential to "GO" General Office on property described as;

The legal is Lot 13, Block 2, Cottonwood Village Sixth, an addition to Wichita, Sedgwick County, Kansas. Generally located 29th Street between Rock Road and Woodlawn (7230 E. 29th Street North).

BACKGROUND: The applicant requests a zone change from "SF-5" Single-family Residential to "GO" General Office on a 2.1-acre platted lot located north of 29th Street North and east of the Gouverneur intersection on the south side of 29th. The site is developed with a church and associated parking. The applicant indicates a desire to sell the property for uses permitted under GO zoning.

The immediate surrounding area is zoned SF-5 and developed with single-family residences to the north and east. West of the site is an elementary school and single-family residences. Southwest of the site, across 29th Street, is an SF-5 zoned apartment complex, part of the DP-73 Residential CUP. Southeast of the site is an SF-5 zoned nursing home, also a part of DP-73. GO zoned property exists 560 feet east of the site, on the south side of 29th Street. The western lots of this GO property are vacant; one lot is developed with a medical office use. This GO property is part of the greater CUP DP 108, which includes "LC" Limited Commercial zoned property at the Rock intersection. Three of the four corners at the Rock/29th intersection are developed with LC zoned CUPs.

CASE HISTORY: The subject property was platted as Lot 13, Block 2, Cottonwood Village Addition in 1985.

ADJACENT ZONING AND LAND USE:

NORTH: "SF-5"	Single-family residential
SOUTH: "SF-5", DP-73	Multi-family residential, nursing home
EAST: "SF-5"	Single-family residential
WEST: "SF-5"	Elementary school, single-family residential

PUBLIC SERVICES: The subject property has frontage along 29th Street North, a four-lane arterial street with a 50-foot half-street right-of-way (ROW). The south side of 29th has an additional turn lane at the Gouverneur intersection. The site has one access point to 29th, the plat grants two openings. Current traffic volumes on this portion of 29th are 13,101 vehicles per day. The 2030 Transportation Plan recommends that this portion of 29th remain a four-lane arterial. All other typical municipal services are available. The application area has a 40-foot pipeline easement running north-south through the property.

CONFORMANCE TO PLANS/POLICIES: The Wichita Functional Land Use Guide of the Comprehensive Plan identifies the subject property as appropriate for "Major Institutional" use, consistent with the church on the site. The Office Locational Guidelines of the Comprehensive Plan recommend that office sites be located adjacent to arterial streets. The Office Locational Guidelines go on to recommend that local, service-oriented offices should be incorporated within or adjacent to neighborhood and community scale commercial development. The guidelines indicate that low-density office uses can serve as a transitional land use between residential uses and higher intensity uses. The Comprehensive Plan generally discourages increased zoning intensity at mid-mile locations, discouraging strip development along arterials. This request is not in conformance with the Comprehensive Plan.

The Access Management Policy recommends 400 feet between full access points on arterial streets; the existing driveway on this site is approximately 300 feet from Hedgetree Street to the east. The Access Management Policy also recommends a 200-foot offset for drives on opposite sides of an arterial, this site has approximately 130 feet between the existing drive and Gouverneur on the south side of 29th.

The Unified Zoning Code (UZC) would require screening between single-family residential development and proposed development on this site, and would require setbacks from all property lines. The Landscape Ordinance would require a landscape plan for the proposed development.

RECOMMENDATION: The Comprehensive Plan generally discourages mid-mile arterial increases in zoning intensity; the Access Management Policy would discourage increased intensity at this site as well, particularly where there is no side street for improved access. "NO" Neighborhood Office zoning may be more compatible with the abutting single-family residences, and would be more consistent with the Comprehensive Plan Office Locational Guidelines statement that "low-density office uses can serve as a transitional land use between residential uses and higher intensity uses." Uses prohibited under NO but permitted under GO include: convalescent care facility, general correctional placement residence, commercial group home, hospital, bed and breakfast, broadcast recording studio, funeral home, and commercial parking area. Uses that are permitted in GO but would require a Conditional Use Permit in NO include: cemetery, college/university, and limited correctional placement residence. Uses that are not permitted in NO but require a Conditional Use Permit in GO include: limited animal care, bank or financial institution, heliport, personal care service, personal improvement service, limited printing and copying, vocational school, and self-storage warehouse.

NO zoning limits individual commercial uses to 8,000 square feet of gross floor area, ensuring "low density" development near residences.

Based upon the information available prior to the public hearings, planning staff recommends that the request be DENIED. However, should the Planning Commission find the site suitable for low density office development, staff recommends that the site be approved for "NO" Neighborhood Office zoning, subject to dedication of access control along 29th Street North except for one opening.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The surrounding area is zoned "SF-5" Single-family residential. "GO" General Office zoning exists south of 29th Street North, approximately 560 feet east of this site. Abutting property to the north and east are single-family residences, an elementary school exists to the west, apartments and a nursing home exist to the south. Office and commercial uses exist within commercial Community Unit Plans at the 29th Street North and Rock intersection.
2. The suitability of the subject property for the uses to which it has been restricted: The subject property is zoned "SF-5" Single-family Residential, which accommodates churches and places of worship, schools, parks, and single-family residential development. The property could be developed as zoned; it may not be a desirable location for single-family residential development.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Permitted land uses under the requested "GO" General Office zoning could be significantly more intense than those permitted under the current residential zoning. The standards of the Unified Zoning Code and the Landscape Ordinance may help to limit noise, lighting, and other activity from adversely impacting the abutting single-family residences. Increased traffic at this site would impact traffic flow on 29th Street North, and could cause traffic conflicts with Gouverneur and Hedgetree Streets.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Wichita Functional Land Use Guide of the Comprehensive Plan identifies the subject property as appropriate for "Major Institutional" use, consistent with the church on the site. The Office Locational Guidelines of the Comprehensive Plan recommend that office sites be located adjacent to arterial streets. The Office Locational Guidelines recommend that local, service-oriented offices should be incorporated within or adjacent to neighborhood and community scale commercial development. The guidelines also indicate that low-density office uses can serve as a transitional land use between residential uses and higher intensity uses. The Comprehensive Plan generally discourages increased zoning intensity at mid-mile locations, discouraging strip development along arterials. This request is not in conformance with the Comprehensive Plan.
5. Impact of the proposed development on community facilities: Increased traffic at this site would impact traffic flow on 29th Street North, and could cause traffic conflicts with Gouverneur and Hedgetree Streets.

JESS McNEELY, Planning Staff, presented the staff report.

Tape I side I

ALDRICH asked if an art school would be appropriate in "NO" Neighborhood Office zoning.

McNEELY responded that "NO" does not permit "personal improvement services." He further clarified that "GO" General Office zoning would allow an art school, with a conditional use permit.

ROB HARTMAN, PEC – stated that he represented the applicant St. Albans Church. He commented that St. Albans combined with St. Stephens Episcopal Church and moved. He said during the process of trying to sell the property, they have had several inquiries concerning General Office zoning. He said they have a contract with Monarch Art School to purchase the property. He said they met with DAB I, and that they voted in favor of the art school. He said they feel the art school is a perfect fit for the neighborhood. He said an elementary school is near the site, as well as 29th Street, which is a major arterial that is completely developed on both sides.

WARNER asked about traffic issues.

ROB HARTMAN said he would let the contract/purchaser speak to that issue.

CHARLES BAUGHMAN, 232 N. Penrose – said the school services about one hundred and thirty students, and that there was more than enough parking. He said classes are approximately 1 hour in length, once per week, and that each class contains anywhere from 12-20 students.

BISHOP asked if the applicant would be willing to accept a protective overlay limiting the zoning to "NO", for personal improvement only?

CHARLES BAUGHMAN said they would be happy with that. He said they wanted to insure a safe environment for their students, and added that they are currently located at 13th and Woodlawn in the Prairie Village strip mall.

BISHOP asked about reducing the ingress/egress from the property to one opening.

CHARLES BAUGHMAN said that would be acceptable, if they could add another turn lane to the left and have 3 lanes, one to the left, one to the right, and one in the center to help with traffic flow. He passed out a flyer about the art school.

KENNETH HOWTH, 3022 N. GOVERNEOUR – said he owned the property directly behind the church. He said he was present to speak against the proposed zoning change. He said he has lived there for eighteen years and that the area has changed dramatically, particularly the traffic. He said going out onto Woodlawn is virtually impossible, and that pulling out onto 29th Street is becoming just as bad, especially attempting to turn east. He said if the school is concerned about safety, this was the last place they should be relocating to. He said they have endured the Wal-Mart, Home Depot, the YMCA and that now they are the victims of a third re-zoning. He said no contract is signed, once the zoning is changed the “genie is out of the bottle” so to speak, and that this property could end up becoming a halfway house. He said he has read through the list of items that are allowed under this proposed zoning, and that it is nothing short of scary. He concluded by saying that it had been nice having a church there the whole time, and that the population density in the area is becoming practically intolerable.

JASON HOLLAND, 3015 N. GOVERNEOUR – said his property abuts the church. He said “GO” General Office zoning allows just about anything. He commented that there is a lot of foot traffic on the sidewalks in the evenings, families with children, and that there is a school zone along 29th Street. He said students and cars don’t go together. He asked if GO zoning required some type of screening from the neighborhood? He said if the school backs out of the deal, the zoning would already be changed. He asked the MAPC to vote to keep the current “SF-5” Single-family Residential zoning.

ROB HARTMAN said they would be willing to provide a protective overlay that restricted the change to just the school use. He mentioned that under “NO” Neighborhood Office they thought all uses would fit in with the neighborhood.

JIM MITCHELL, Pastor – St Albans and St. Stephens – said on Sunday’s people were coming and going to and from the church; and added that the church was also available for other uses during the week and at other times. He said the parish has never had any complaints about the amount of traffic or accidents at access points on 29th Street. He said the Monarch School would probably use the area in the same way that the church has used it.

MOTION: To approve subject to staff recommendations.

ANDERSON moved, **HILLMAN** seconded the motion, and it carried (11-1). **McKAY** – Nay.

JOHN SCHLEGEL clarified that the motion included the protective overlay.

BISHOP asked what items the protective overlay provided.

ROB HARTMAN said the protective overlay provided all uses under “NO” and the personal improvement service use only.

DALE MILLER explained that “GO” General Office does not allow personal improvement services with a condition use permit. He said the Commission could approve the requested “GO” subject to a protective overlay, but that the applicant would still need to come back to the Commission and get a condition use on top of that. He also added that the case was not advertised with a “conditional use permit”. He said the Commission could defer the request until the applicant files a conditional use, then bring it back at the next MAPC hearing, or they could go ahead and approve the “GO” as requested plus the protective overlay knowing that the applicant will have to obtain a conditional use permit to make it effective.

McKAY said he could not support the motion. He said he had a problem doing all this for “one purpose use”.

BISHOP said although the property was landlocked with residential, she felt this was the type of use compromise that the MAPC could follow. She said the established uses will run with the land and hopefully that won’t be a problem in the future.

5. **Case No.: ZON2006-00038** – USD 259 c/o Joe Hoover (owner); Garrison Construction Co., c/o Gary Hassenflu (contract purchaser) Request Zone change from “LI” Limited Industrial to “B” Multi-family Residential on property described as;

Lots 149, 150, 151, 152, 153, 154, 155, 156, 157 and 158 together with School Reserve in Hunter’s 3rd Addition to Wichita, Kansas, Sedgwick County, Kansas.

AND

The South 40 feet of Lot 8 and the North 37.5 feet of Lot 9, Brookside Addition to the City of Wichita, Sedgwick County, Kansas Generally located Kellogg and Pattie (1220 E. Kellogg).

BACKGROUND: The application area, the Kellogg Elementary School building, is currently zoned “LI” Limited Industrial, consistent with it’s location along Kellogg/US-54. The applicants wish to convert the existing school building into apartments, and construct additional freestanding apartments on the site. LI zoning prohibits residential use; therefore the applicants have requested a zone change to “B” Multi-family Residential, which is considered a down-zoning. B zoning permits up to 75 dwelling units per acre. The applicant could request a down-zoning to any level of commercial or office zoning, which would permit residential development as well. But, the applicant wishes to restrict the redevelopment of the property to multi-family residential. “GC” General Commercial, “LC” Limited Commercial, and “GO” General Office all permit 75 dwelling units per acre, equivalent to the B zoning residential density.

Most surrounding properties are zoned LI, with the exception of several rezonings to enable the refinancing or sale of residential properties. All immediately surrounding properties to the north and west are developed with single-family residences. East of the site, across Pattie, is a mixture of warehousing, manufacturing, parking, and residential uses. Further east of the site, east of Lulu, is a large church complex. South of the site is Kellogg/US-54, a limited access freeway.

Regarding the immediate area around the site, there are 10 properties west of Laura and south of Lewis, all 10 are residential properties. 12 properties sit immediately north of the site and south of Lewis, 8 of the 12 are residential and 4 are commercial uses, and the properties abutting the school to the north are single-family residential. 9 properties sit on the east side of Pattie, this street

has seen more transition, four businesses are located along here, along with a parking lot for the school, and only two residences are left on this side of Pattie.

To the north side of Waterman Street, approximately 1000 feet north of this site, the Douglas Street corridor was rezoned in 2005 from LI to "CBD" Central Business District. The purpose of that rezoning was to enable residential development, and increase flexibility for redevelopment of older buildings within that corridor.

Residential conversions of institutional and commercial structures have become more common within the city. Re-use of elementary school sites, churches, and many warehouse/commercial structures are successful local examples of this concept.

CASE HISTORY: The site was platted as Lots 149 through 158 and School Reserve, Hunters 3rd Addition in 1889. The platted School Reserve would require re-platting for other than school uses.

ADJACENT ZONING AND LAND USE:

NORTH: "LI"	Single-family residential, office
SOUTH: "LI"	Kellogg freeway
EAST: "LI"	Warehousing, manufacturing, residential
WEST: "LI", "LC"	Single-family residential

PUBLIC SERVICES: The site has access to Pattie and Laura, both paved local streets with an 80-foot right-of-way. The site has nearby access to Kellogg via Washington Street. All municipal services are available.

CONFORMANCE TO PLANS/POLICIES: The "2030 Wichita Functional Land Use Guide" of the Comprehensive Plan identifies this site as appropriate for "Urban Development Mix", which encompasses areas that will be developed or redeveloped with Urban Residential uses, as well as Major Institutional uses, Local Commercial uses, and Park and Open Space uses.

The Comprehensive Plan medium and high-density residential locational guidelines, and several specific Plan objectives and strategies, encourage infill and increased residential density within the city core area, near public transportation, near main transportation arteries, and near employment hubs.

Multi-family development on the site would require Unified Zoning Code (UZC) setbacks on the site, a landscape plan, and conformance to the UZC parking requirements.

RECOMMENDATION: A small business owner in the immediate area who is opposed to the zone change and multi-family development contacted planning staff; the business owner feels that multi-family use may conflict with businesses in the area. Under B zoning, the site could be developed in theory with up to 75 units per acre. However, the UZC setback, height, and parking requirements, as well as housing code requirements, will limit the project scale. Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The surrounding area is zoned "LI" Limited Industrial, with a few exceptions where rezonings enabled sale or refinancing of residential properties. The immediate neighborhood has seen significant transition. Kellogg transitioned from a surface street to an elevated limited access freeway. The building on this site ceased serving as an elementary when the school district no longer needed it. Several small businesses moved in along the Kellogg frontage, as land was available with good access to Kellogg. The Douglas Street corridor, extending south to Waterman, was rezoned to Central Business District to allow residential development and flexible redevelopment of older buildings. The neighborhood has single-family residences north and west of the site. The request is not out of character with the mix of uses in the neighborhood.
2. The suitability of the subject property for the uses to which it has been restricted: The site could be developed as currently zoned with any use other than residential. The school building may not be easily renovated for all office, commercial, or industrial uses.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of the request would permit dense residential development. The effect on nearby residents and businesses would be increased traffic on Laura, Pattie, and Lewis. The minimum standards of the Unified Zoning Code, to include setbacks, should mitigate potential negative effects on the surrounding residential neighbors. The proposed project could have significantly less impact on surrounding property owners than commercial or industrial uses permitted under the current zoning.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The "2030 Wichita Functional Land Use Guide" of the Comprehensive Plan identifies this site as appropriate for "Urban Development Mix", which encompasses areas that will be developed or redeveloped with Urban Residential uses, as well as Major Institutional uses, Local Commercial uses, and Park and Open Space uses. The request is in general conformance with the locational guidelines and goals of the Comprehensive Plan.
5. Impact of the proposed development on community facilities: Traffic on the existing local streets will increase as a result of the proposed development. However, this site has good access to Kellogg, a limited access freeway, to Lulu and Waterman, both urban collectors, and Douglas and Washington, both arterials.

JESS McNEELY, Planning Staff, presented the staff report.

McNEELY referred MAPC members to copies of letters and an e-mail opposing the requested zoning change. He commented that staff has received no negative comments from surrounding residents, just business owners. He added that DAB I had voted to deny the request 6-3, but that Planning staff was recommending approval.

BISHOP asked for a copy of the report from the DAB I meeting.

McNEELY said a written copy has not been provided to staff yet.

MITCHELL asked for clarification on item #2; the statement that the school building might not be easily renovated for office, commercial, or industrial uses.

McNEELY commented that was based on the architect's statement regarding desirability of the building for residential development.

JAKE MOONEY, GARRISON DEVELOPMENT – said as developer and project manager for Garrison Development, he had met with the business owner who voiced opposition to the project after the DAB I meeting Monday evening. He said the major point of opposition was not necessarily the zoning, but use of the building as low-income housing. He said he felt there was a large misunderstanding of what low-income housing is these days, referencing the old Section 8 of Program of twenty years ago. He said there are completely new guidelines on low-income housing and that Garrison Construction was making a 15-year commitment to the project. He said after that time, they would either sell the units as condos or continue to manage them as rental units. He said he did not understand the church's opposition, since the units would generate more parishioners for the church. He added that he understood from the architectural staff that the church was also interested in buying the property. He concluded by stating that they also found the site attractive because of its proximity to the arena development.

Responding to a question from **BISHOP, MOONEY** briefly reviewed the make up of the development stating that there would be a total of 39 units, with various adjusted gross income (AGI's) levels ranging from 40% up to 60%. He added that there was a \$35,000 income cap for the area.

There was brief discussion concerning the adequacy of parking for the site, 58 spaces for 39 units. **MOONEY** stated they felt that was adequate parking, plus there was additional parking, formerly the teachers parking lot, near the site.

GARY NYE, 9405 Greenbriar – said he owned one of businesses directly across the street from the proposed development. He commented that he wanted to be sure that the Commission had accurate information in order to make a decision; and stated that some of the information presented was not exactly accurate. He said 85% of the area is commercial and that the area has been transitioning from residential to commercial for over the last twenty years. He questioned the statement that it was easier to convert the building to residential than commercial use, mentioning electrical, plumbing and other issues and stated that it would be easier to convert the building to commercial use. He talked about the neighborhood stating that some of the houses were rental units and that most were in some state of disrepair. He commented on the risks involved for residents living in the area and mentioned discovery of a "meth" lab and house of prostitution in the area in the past. He concluded by saying that the area has been transitioning nicely from residential to commercial and said he can't imagine potential residential use with the types of businesses that are in the area. He provided MAPC members a *hand out* which was pictures of Eaton Place and Harvester Apartments, stating that these were projects where the neighbors "fit together". He said the proposed zoning request to change the area from limited commercial to multi-family residential was not a good fit. He said most people would not want plumbers, painters, auto detail shops, and advertising agencies as neighbors. He concluded by referring MAPC members to a "non-official protest" included with the hand out.

DARRYL CREEKMORE, 4004 Terrace Circle – said he has operated the plumbing business located at 440 Pattie for fifty-eight years and that he was raised in the area. He said two issues concern him; namely, crime and the value of his property. He said a long time ago the area was mostly residential; people owned their homes and kept them up. He said as time went by commercial enterprises moved into the area, most of the residential structures became rental units and crime started to become an issue in the area. He mentioned that his business has been broken into twice and robbed once. He said when property values come down, no one wants to live or build commercial businesses in the area. He concluded by stating that crime has dissipated a lot in the last few years and requested that the MAPC deny the zoning change request because he felt that if residential were allowed in the area, crime would increase and property values would come down.

KEN POTVIN, 110 Farmstead – commented on the commercial growth in the area and how things have gotten steadily better. He said he felt putting residential near businesses would de-value the commercial property. He said the proposed residential development is not going to work with the mix of businesses in the area. He mentioned issues like traffic (semi's and other trucks that travel through the area), limited parking, access to Kellogg, and other safety issues. He said having children in the area would not mix with the commercial and business nature of the area and stated that he was opposed to the requested zone change.

DWAYNE CREEKMORE, 4120 Ironwood – he said concentrating more people in the area and the increased crime that may occur was not a good idea. He said since residential use has decreased in the area, there has also been a decrease in crime. He requested that the MAPC deny the requested zone change.

TIM BUCHANAN, First Church of the Nazarene, 1400 East Kellogg – commented that the church has been at that address ninety-four years. He said he has been there twenty-five years and has seen a lot of transition in the neighborhood. He said the church owns fifty properties in the area, thirty-four of which are within a 200-foot radius of the school. He clarified that the church was not against low-income housing; adding that the church provides ministries that serve women, children and families. He said their primary concern was for the safety of the people who live the area. He said the infrastructure in the area is a bit deteriorated and that it was not safe to walk in the area at night. He said the location is surrounded by industrial uses and mentioned the large trucks that frequent the area. He said people are not looking out for children in that type of environment. He also clarified that the church board and congregation had not voted to buy the building, and that they did not have a contract on the property. He mentioned that if the building was used as a ministry center, there would great access to residents south of Kellogg via the pedestrian bridge. He said he had briefly commented to Wes Darnell at the DAB I meeting that the location of the property would make great place to serve the community and provide social services. Responding to a question from **MARNELL, BUCHANNAN** showed MAPC members where the church was located on the map.

ALDRICH commented since the church owned properties all around the building, was it the intention of the church to eventually purchase the property?

BUCHANAN said he couldn't speak on behalf of the church; however, he said he would be in favor of purchasing the building for some type of social service use.

JAKE MOONEY commented that property values should increase with the addition of residential into the area. He concluded by saying that of the 1,000 units managed by Garrison Development, only 5% actually have children, so that was not a major concern.

Responding to a question from **HENTZEN**, **McNEELY** clarified that USD 259 was the property owner and that Garrison Development was the contract-purchasing representative.

MOTION: To approve subject to staff recommendations.

BISHOP moved, **ALDRICH** seconded the motion.

JOHNSON commented that it would make more sense to zone to "LC" Limited Commercial.

SUBSTITUTE MOTION: To deny the application based on neighborhood opposition and the DAB I vote.

MITCHELL moved, **WARNER** seconded the motion, and it failed (3-9).

MARNELL, ALDRICH, BISHOP, ANDERSON, HILLMAN, DOWNING, MCKAY, JOHNSON, and GISICK – Nay.

BISHOP said she had a problem not having the report from DAB I. She said she felt there was a need for more residential in downtown Wichita and that an increasing number of young people were looking for this type of living situation. She also mentioned that she felt the area would motivate the addition of further amenities and that parking was more than adequate.

MARNELL said he felt the proposal was a great re-use of a building and that he opposed the substitute motion.

ORIGINAL MOTION passed (9-3). **HENTZEN, MITCHELL** and **WARNER** – Nay.

6. **Case No.: CUP2006-38/ZON2006-39** –R & R Realty, LLC (owner); Donald R & Ramona Hayes (owner); Baughman Company, PA, c/o Russ Ewy (agent) Request Create DP-301 North Forty-Fifth Place Community Unit Plan and Sedgwick County zone change from "SF-20" Single-family Residential to "LC" Limited Commercial on property described as;

The E ½ of the SW ¼ of the NW ¼, and the E ½ of Government Lot 4, and the E ½ of the W ½ of Government Lot 6 in the NW ¼ of Section 27, Township 26 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas, EXCEPT a tract of land described as beginning at a point in the North line of said Section and 867.8 feet East of the Northwest corner of said Section 27; thence south parallel with the East line of the SW ¼ of the NW ¼ of said Section 27, a distance of 452.0 feet; thence East parallel with the North line of said Section 27, a distance of 458.0 feet to a point in the East line of the NW ¼, NW ¼ of said Section 27; thence North along the East line of the NW ¼ of the NW ¼ of said Section 27, to the Northeast Corner of said NW ¼ of the NW ¼ of said Section 27; thence West to the point of beginning; and EXCEPT a tract of land in the E ½ of the SW ¼ of the NW ¼ of said Section 27, described as follows: Beginning at the Southeast corner of said SW ¼ of the NW ¼; thence North along the East line of said E ½ of the SW ¼ of the NW ¼, 237.7 feet; said East line having a bearing of North 0 degrees 24 minutes West; thence South 89 degrees 46 minutes West, 19.4 feet; thence North 85 degrees 28 minutes West, 301.0 feet; thence North 78 degrees 55 minutes West to a point on the West line 293.1 feet North of the Southwest corner of said E ½ of the SW ¼ of the NW ¼ Section; thence South 0 degrees 27 minutes East, 293.1 feet to the South line of said Quarter section; thence North 89 degrees 58 minutes East along said South line to the place of beginning, TOGETHER with the W ½ of the SW ¼ of the NW ¼; the W ½ of Government Lot 4 in the NW ¼; and the W ½ of the W ½ of Government Lot 6, all lying in said Section 27; EXCEPTING THEREFROM, as it may affect the last described three tracts, the following described properties: A tract of land in the S ½ of the NW ¼ of said Section 27, described as follows: Beginning at a point on the West line 417.42 feet North of the SW corner of said Quarter Section, said West line having a bearing of N00_31'W; FIRST COURSE, thence N89_46'E, 111.3 feet; SECOND COURSE, thence N07_23'W, 595.5 feet; THIRD COURSE, thence S89_31'W, 40.0 feet to the West line of said Quarter Section; FOURTH COURSE, thence S00_31'E, 590.7 feet along said West line to the place of beginning; and EXCEPT a tract of land in the W ½ of the SW ¼ of the NW ¼ of said Section 27, described as follows: Beginning at the SE corner of said W ½ of the SW ¼ of the NW ¼; thence North along the East line thereof, 293.1 feet, said East line having a bearing of N00_27'W; thence N78_55'W, to a point 417.42 feet East of the West line of said Quarter Section; thence S 00_27'E, 342.3 feet, more or less, to the South line of said Quarter Section; thence N89_58'E along said South line to the place of beginning; and EXCEPT the following described tract: 4 acres in the form of a square in the NW corner of the NW ¼ of said Section 27; and EXCEPT a tract described as follows: Beginning at the SW corner of the said NW ¼, thence North 417.42 feet; thence East 417.42 feet; thence South 417.42 feet to the South line of said NW ¼; thence West 417.42 feet to the point of beginning; and EXCEPT a tract described as follows: Beginning at a point 447.43 feet South of the NW corner of said Section 27; thence East 208.72 feet; thence South 417.44 feet; thence West 208.72 feet; thence North 417.44 feet to the point of beginning; and EXCEPT a tract described as follows: Beginning at a point 1233 feet North of the SW corner of said NW ¼, thence East 250 feet; thence North 115 feet; thence West 250 feet; thence South 115 feet, to the point of beginning; and EXCEPT a tract of land described as follows: Beginning at the NE corner of the W ¼

of Government Lot 6, in said Section 27; thence South 417.5 feet, thence West parallel with the North line of Government Lot 6, 208.75 feet, thence North 417.5 feet to the North line of Government Lot 6, thence East to the place of beginning, and EXCEPT a tract of land in the W ½ of the SW ¼ of the NW ¼ of said Section 27 described as follows: Commencing at the SW corner of the W ½ of said SW ¼ of the NW ¼; thence on an assumed bearing of N88_55'12"E, 201.424 meters (660.84 feet) along the South line of said W ½ to the East line of the W ½ of said SW ¼ of said NW ¼; thence N01_32'42"W, 89.337 meters (293.10 feet) along said East line to the Northerly right-of-way line of the existing highway; thence N79_41'04"W, 54.474 meters (178.72 feet) along said Northerly right-of-way line to the point of beginning; FIRST COURSE, thence N70_02'07"W, 22.534 meters (73.93 feet) to said Northerly right-of-way line, SECOND COURSE, thence S01_35'23"E, 3.860 meters (12.66 feet) along said Northerly right-of-way line; THIRD COURSE, thence S79_41'04"E, 21.419 meters (70.27 feet) along said Northerly right-of-way line to the point of beginning, all being subject to road rights-of-way of record.

BACKGROUND: The applicant proposes to create a commercial community unit plan containing approximately 55 acres for commercial use on the east side of Ridge Road between K-96 and 45th Street North. Only one parcel is shown, which is atypical for proposed CUPs. Also, it is extremely rare for any commercial use to occupy greater than 20-25 acres in a single use and a site would only be this size when developed with a big box use, a large shopping center or a large office complex.

All uses allowed by right in LC would be permitted except adult entertainment establishments, sexually oriented businesses, correctional placement residences, asphalt/concrete plants, safety service, pawn shop, agricultural sales and service, wireless communication services or theater.

The CUP requests a maximum building coverage of 30 percent, a maximum gross floor area of 35 percent, and a maximum building height of 45 feet. The proposed number of buildings is 14. Building setbacks are shown as 35 feet. A six-foot masonry wall would be required along the north, east and west property lines of the CUP where adjacent to residential zoning.

Buildings would have uniform architectural compatibility and parking lots would have similar or consistent lighting elements, limited to 24 feet in height. Window display signs are limited to 25 percent of the window area. Monument signage would be spaced a minimum of 150 feet apart. Flashing signs (except time, temperature, public service messages) or signs that create the illusion of movement, portable and off-site signs are prohibited.

The site currently is in agricultural use with a nonconforming commercial activity along Ridge Road. The site does not have a uniform property line along Ridge Road or 45th Street North. The proposed CUP engulfs nine single-family residences. The surrounding property is zoned SF-20 and mostly consists of small acreages in single-family use or agricultural use with the associated farmsteads. A plat for a church was approved for the abutting property on the east but the church has not been developed.

CASE HISTORY: The property is unplatted.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-20	Single-family, farmsteads
SOUTH:	SF-20	Agricultural, farmstead
EAST:	SF-20	Single-family, vacant
WEST:	SF-20	Single-family, farmsteads

PUBLIC SERVICES: Three proposed points of access are shown on Ridge Road and two on 45th Street North. Ridge Road is an urban minor arterial developed as a two-lane road with shoulders. It is scheduled for reconstruction as a four-lane arterial in 2009. 45th Street North is an urban collector and is a sand road.

Traffic counts on Ridge Road between K-96 and 45th Street North was 7,500 vehicles per day in 2004 (county count). The 2030 projection for Ridge is 18,000 to 18,500 vehicles per day.

The nearest public water is a 20" line on the southwest corner of the K-96/Ridge interchange. The nearest sewer line is ¼ mile to the south on Ridge, but this 18" line may have capacity constraints that prevent service to this site. The site sewer master plan identifies this area as being served by sewer from a new treatment facility to the northeast, but construction of this facility is at least 10 years away and any interim development would require force main lift stations subject to capacity constraints. The CUP contains a provision that states that no development shall occur until municipal water and sewer services are provided to the site.

CONFORMANCE TO PLANS/POLICIES: The "2030 Wichita Functional Land Use Guide, as amended May 2005" of the 1999 *Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as within the 2030 Wichita urban growth area and as appropriate for "employment/industry center" land use category. This category includes industrial, manufacturing, service and non-institutional uses but not specifically retail or commercial uses.

Commercial Objective III.B encourages future commercial areas to: "Develop future retail/commercial areas which complement existing commercial activities, provide convenient access to the public and minimize detrimental impacts to other adjacent land uses." The tract has convenient access due to its location on the K-96 and Ridge Road interchange. No significant clusters of retail commercial activities are located north of K-96 to complement; therefore the site does not comply with **Strategy III.B.1** to regulate new strip commercial to areas identified by the Land Use Guide or neighborhood plans for commercial. **Strategy III.B.2** seeks to integrate out parcels to planned centers through shared internal circulation, combined signage, similar landscaping and building materials, and combined ingress/egress location. The proposed CUP incorporates architectural and lighting compatibility, cross-lot circulation, a site circulation plan for each phase but not coordinated for the whole development, and combined ingress-egress. Requirements for similar landscaping, shared or similar signage, and an overall site circulation plan would enhance compatibility with the objective/strategies of the Comprehensive Plan. **Strategy III.B.3** seeks to work with property owners to reduce access points along arterial streets; conforming to this strategy is hampered by lack of control of a number of properties along Ridge Road and 45th Street North, but the number of access points requested on the CUP is within the range allowed by urban standards.

Commercial Locational Guideline #1 of the Comprehensive Plan recommends that commercial sites should be located adjacent to arterial streets. The proposed development complies with this guideline. **Commercial Locational Guideline #3** recommends site design features that limit noise, lighting and other aspects that may adversely affect residential use, and **#4** recommends compact clusters versus extended strip development. The proposed CUP restricts the height of parking lot lighting to 24 feet. Wider setbacks or use restrictions within 200 feet of residential zoning would mitigate conflicts with the residential properties engulfed by the CUP.

RECOMMENDATION: The 2030 Wichita Functional Land Use Guide envisioned a swath of land for industrial and employment center type of development. This swath was shown as being one-half mile deep along the north side of K-96 and extending from Hoover Road to one-half mile west of Ridge Road. As shown on the Comprehensive Plan, this could have developed as a major employment center.

The requested by this CUP and other residential subdivision under consideration in the vicinity, the area would not become an employment center. Instead, it might be a typical suburban area with single-family housing and a shopping center, perhaps with a big box and pad site types of use.

Two additional problems plague the proposed CUP. First, the CUP wraps around existing residential uses. Approval of intensive uses on the abutting property places undue externalities upon the continued enjoyment of their residential properties. These burdens include increased traffic, lighting, noise, trash, and all the associated attributes of commercial and retail use. Second, the timing for development of this tract is probably several years away due to the lack of sewer and road improvements. The proposed recommendations of staff address these concerns by focusing development upon the southern edge of the tract, providing large buffer zones around the residential uses, and reducing the intensity of use allowed nearer to 45th Street North. Further, the conditions recommend a phasing of development to keep it from overburdening public services and to allow a more detailed design of the CUP to provide parcels that are reflective of the types of uses that are allowed.

Based on these factors, plus the information available prior to the public hearing, staff recommends the request be APPROVED subject to platting within one year and subject to the following conditions:

- A. APPROVE the zone change (ZON2006-38) to LC Limited Commercial subject to platting of the entire property within one year;
- B. APPROVE the Community Unit Plan (DP-301), subject to the following conditions:
 1. Transportation improvements:
 - a. Guarantee construction of northbound accel/decel lanes on Ridge Road and center turn lane to major entrances.
 - b. Guarantee construction of two-lane paved road on 45th Street North to county rural standards from intersection east to edge of CUP boundary.
 - c. Provide petition for future signalization of major entrance on Ridge Road, to be installed when warranted by the Traffic Engineer.
 - d. Access shall be limited to three openings on Ridge Road and two openings on 45th Street North, as shown on the CUP drawing; these openings shall conform to access management policy by separating full movement openings by 400 feet measured from centerline of openings.
 2. No development shall be permitted until municipal water and sewer are provided to the site.
 3. No development shall occur within 200 feet of residential zoning except on the east property line.
 4. The CUP shall be revised prior to issuance of the first building permit to reflect parcel boundaries for individual proposed uses.
 5. Maximum building height shall be reduced to 35 feet within 200 feet of Ridge Road and 45th Street North and within 200 feet of residential zoning except the east property line of the CUP.
 6. Add to General Provision #7A: "and share similar elements in design."
 7. Add to General Provision #7C: "billboards".
 8. Add General Provision #7E.
 - a. On Ridge Road, monument signs shall have a maximum height of 20 feet and maximum sign face area to 100 square feet each, except one sign that may be 30 feet in height and 250 square feet. The maximum number of signs on Ridge Road would be five.
 - b. On 45th Street North, two monument signs shall be permitted with a maximum height of 12 feet and a maximum sign face area of 75 square feet each.
 - c. Along K-96, monument signs shall have with a maximum height of 25 feet and spacing of 150 feet apart; these signs may be increased up to 35 feet by trading one sign location in exchange for five additional feet in height above 25 feet. Maximum sign face area shall not exceed 0.8 times the linear frontage along K-96.
 9. Add to General Provision #12A: "with a shared palette of landscape materials."
 10. Add to General Provision #14 and 15: "with similar materials to the main buildings".
 11. Add to General Provision #18: "Uses within 600 feet of 45th Street North shall be restricted to those uses permitted in the "NR" Neighborhood Retail zoning district. No overhead doors shall be permitted within 200 feet of residential zoning and shall not be facing any residential zoning district. Only one use shall be permitted that occupies more than 80,000 square feet in a single use and this use shall be located at least 1,500 feet south of 45th Street North.
 12. Add to General Provision #25: "An overall site plan for shall be required for review and approval by the Planning Director prior to the issuance of any building permits; the site plan shall ensure internal circulation within the parcels and joint use of ingress/egress openings and that private drive openings are not impacted/ blocked by the layout of parking stalls or landscaping."
 13. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.

14. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.
15. All property included within this CUP and zone case shall be platted within one year after approval of this CUP by the Governing Body, or the cases shall be considered denied and closed. The resolution establishing the zone change shall not be published until the plat has been recorded with the Register of Deeds.
16. Prior to publishing the resolution establishing the zone change, the applicant(s) shall record a document with the Register of Deeds indicating that this tract (referenced as DP-301) includes special conditions for development on this property.
17. The applicant shall submit four revised copies of the CUP to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The site currently is in agricultural use with a nonconforming commercial activity along Ridge Road. The site does not have a uniform property line along Ridge Road or 45th Street North. The proposed CUP engulfs nine single-family residences. The surrounding property is zoned SF-20 and mostly consists of small acreages in single-family use or agricultural use with the associated farmsteads. A plat for a church was approved for the abutting property on the east but the church has not been developed.
2. The suitability of the subject property for the uses to which it has been restricted: The area is suitable for the use as currently zoned (suburban residential) until public water and sewer services are extended to the site. Once municipal services are available, the site is better utilized with more intensive uses.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: As proposed with the CUP wrapping around residential sites, commercial use would be detrimental to continued enjoyment of the residential sites. The proposed buffer zone is to mitigate some of these impacts.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The "2030 Wichita Functional Land Use Guide, as amended May 2005" of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as within the 2030 Wichita urban growth area and as appropriate for "employment/industry center" land use category. This category includes industrial, manufacturing, service and non-institutional uses but not specifically retail or commercial uses. **Commercial Objective III.B** encourages future commercial areas to: "Develop future retail/commercial areas which complement existing commercial activities, provide convenient access to the public and minimize detrimental impacts to other adjacent land uses." The tract has convenient access due to its location on the K-96 and Ridge Road interchange. No significant clusters of retail commercial activities are located north of K-96 to complement; therefore the site does not comply with **Strategy III.B.1** to regulate new strip commercial to areas identified by the Land Use Guide or neighborhood plans for commercial. **Strategy III.B.2** seeks to integrate out parcels to planned centers through shared internal circulation, combined signage, similar landscaping and building materials, and combined ingress/egress location. The proposed CUP incorporates architectural and lighting compatibility, cross-lot circulation, a site circulation plan for each phase but not coordinated for the whole development, and combined ingress-egress. Requirements for similar landscaping, shared or similar signage, and an overall site circulation plan would enhance compatibility with the objective/strategies of the Comprehensive Plan. **Strategy III.B.3** seeks to work with property owners to reduce access points along arterial streets; conforming to this strategy is hampered by lack of control of a number of properties along Ridge Road and 45th Street North, but the number of access points requested on the CUP is within the range allowed by urban standards. **Commercial Locational Guideline #1** of the Comprehensive Plan recommends that commercial sites should be located adjacent to arterial streets. The proposed development complies with this guideline. **Commercial Locational Guideline #3** recommends site design features that limit noise, lighting and other aspects that may adversely affect residential use, and **#4** recommends compact clusters versus extended strip development. The proposed CUP restricts the height of parking lot lighting to 24 feet. Wider setbacks or use restrictions within 200 feet of residential zoning would mitigate conflicts with the residential properties engulfed by the CUP.
5. Impact of the proposed development on community facilities: As proposed, traffic could be expected to increase significantly on Ridge Road and also on 45th Street North. Water and sewer lines will need to be extended to serve the site, and the CUP contains a provision that states that no development shall occur until municipal water and sewer services are provided to the site.

DONNA GOLTRY, Planning Staff, presented the staff report.

WARNER asked about County paving requirements and whether that would be paid for by the developer or spread to existing residents.

RUSS EWY, BAUGHMAN COMPANY said they would petition for their portion of the paving project.

BISHOP asked if the developer would accept additional provisions for bike and pedestrian paths through the drainage reserve in addition to between arterial sidewalks and development of bike racks.

RUSS EWY said the developer would probably be in agreement with that.

TONY LOUX, 4400 N. Ridge Road – said he was opposed to the zoning change due to traffic and crime. He said he could see that his protest wasn't going to do any good, but he wanted to go on record that he was opposed to it.

MCKAY out at 2:10 pm.

JOHNSON out at 2:12 pm

JAY RUSSELL, DEVELOPER, said they would pay 100% of the cost for pavement until other properties are rezoned. He said they had planned on a bicycle trail along the south property line as a way to try to complete a bike trail from Ridge Road to Hoover Road, in conjunction with the new park to be developed east of Hoover Road. He commented that they would be developing residential to the east, consisting of approximately 600 houses. He said they wanted to be able to mention potential commercial development in the area at a future date in their brochures for the residential development. He said he has visited with Mr. Loux and felt they would be able to offer him some protections. In addition, he said he has also met with neighbors on the east side of Ridge Road up to 45th Street and offered to include them in a "joint" zoning request, but that it was short notice. He said he thought most of those property owners would be requesting zoning changes on their property in the future.

MOTION: To approve subject to staff recommendations.

ALDRICH moved, **ANDERSON** seconded the motion, and it carried (10-0).

BISHOP clarified that this included the bike and pedestrian amenities.

7. **Case No.:ZON2006-40** – Virginia Skinner / Michelle Webster Request Zone change from "LC" Limited Commercial to "TF-3" Two-family Residential, and delete Cov-29 that restricted the property to "GO" General Office uses and a small animal clinic on property described as;

762146 - A tract described as: Commencing 924 feet South of the Northwest corner of the Northwest Quarter of Section 36, Township 27 South, Range 1 East of the Sixth Principal Meridian, Sedgwick County, Kansas; thence East 175 feet to the Point of Beginning; thence East to a point which is 924 feet South and 330 feet East of the Northwest corner of said Northwest Quarter; thence South 67 feet; thence West to a point which is 991 feet South and 175 feet East of the Northwest corner of said Northwest Quarter; thence North 67 feet to the Point of Beginning, EXCEPT that part taken in Condemnation Case A-35290 AND EXCEPT that part taken for Glendale Avenue. Said tract contains 8,385 square feet, more or less, and is subject to any restrictions, easements, agreements, and rights-of-way of record.

762085 - A tract described as: Beginning 924 feet South of the Northwest corner of the Northwest Quarter of Section 36, Township 27 South, Range 1 East of the Sixth Principal Meridian, Sedgwick County, Kansas; thence East 175 feet; thence South 67 feet; thence West 175 feet; thence North 67 feet to the Point of Beginning, EXCEPT that part taken in Condemnation Case A-43699 for Oliver Avenue. Said tract contains 8,376 square feet, more or less, and is subject to any restrictions, easements, agreements, and rights-of-way of record. Generally located East side of Oliver, south of Harry (1740 S. Oliver).

BACKGROUND: The application area is an unplatted tract .4 of an acre in size located at 1740 South Oliver and 1741 South Glendale Avenue, and is developed with a single-family residence facing Oliver and an accessory building facing South Glendale Avenue. The accessory building is used for a small animal veterinary clinic that is permitted by the site's LC Limited Commercial zoning, subject to a restrictive covenant that restricts uses to a small animal clinic and GO General Office uses (see case history below). In 1995, the applicant wanted to be able to have a small animal clinic on the same site as her residence when she rezoned it to LC. Now the applicant desires to sell the property, and in order to get the lowest interest rate the home needs to be down zoned to a residential zoning district. Therefore, the applicant is requesting TF-3 Two-family Residential zoning. The property is a "through" lot, meaning it has double street frontage. Access for the residence is off of Oliver while the small animal clinic takes its access off of Glendale.

Property to the north and east is zoned TF-3 Two-family Residential and developed with residences. Property to the south is zoned GO General Office and developed with a multi-family complex. Clap Golf course is located to the west, across Oliver.

CASE HISTORY: In 1995, the site was rezoned from the A Two-family Residential district (TF-3 Two-family Residential) to LC Limited Commercial, subject to Covenant 29, which restricts uses to those permitted in the BB Office (GO General Office) district plus small animal clinic. The covenant also restricted signage to that permitted by the BB Office district.

ADJACENT ZONING AND LAND USE:

NORTH:	TF-3	Two-family Residential; residences
SOUTH:	GO	General Office; apartments
EAST:	TF-3	Two-family Residential; residences
WEST:	SF-5	Single-family Residential; public golf course

PUBLIC SERVICES: Normally expected public services are available to the site. Oliver is a paved arterial street at this location with 50 feet of one-half street right-of-way.

CONFORMANCE TO PLANS/POLICIES: The "2030 Wichita Functional Land Use Guide" depicts this site as appropriate for "urban residential" uses. The "urban residential" category encompasses areas that reflect the full diversity of residential development densities and types typically found in a large urban municipality.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED recognizing that the small animal clinic and Covenant 29 will be rendered null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Property to the north and east is zoned TF-3 Two-family Residential and developed with residences. Property to the south is zoned GO General Office and developed with a multi-family

complex. Clap Golf course is located to the west, across Oliver. The area appears to be a stable residential neighborhood.

2. The suitability of the subject property for the uses to which it has been restricted: The site could continue to be used as currently zoned, however the current zoning inhibits the property owner from marketing it so it can get the best residential loan interest rates.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of the request will not detrimentally affect nearby properties as the requested zoning would be consistent with neighboring properties to the north and east.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Approval will assist the applicant in selling the property for residential uses which would promote public interests in returning the site to residential zoning that is consistent with surrounding uses.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The "2030 Wichita Functional Land Use Guide" depicts this site as appropriate for "urban residential" uses. This request is consistent with the plan's designation.
6. Impact of the proposed development on community facilities: No additional demands on community facilities are anticipated.

MOTION: To approve subject to staff recommendations.

JOHNSON moved, **HENTZEN** seconded the motion, and it carried (12-0).

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8. **Case No.: CON2006-38** – Mennonite Housing Rehabilitation Services, Inc. Request Conditional Use Permit to allow a maximum of 14.5 multi-family dwelling units per acre on "TF-3" Two-family Residential zoning on property described as;

Lots 1 through 36, both inclusive, on Breckinridge, now Madison Avenue, Solomon's Second Addition to Wichita, Sedgwick County, Kansas;

AND

Lots 3 and 4, and Lots 7, 8, 9, 10, 11, 12 and 13 on Ninth Street, Solomon's Second Addition to Wichita, Sedgwick County, Kansas Generally located on both sides of Madison Avenue, between 9th and 10th Streets.

BACKGROUND: The Unified Zoning Code (UZY) permits multi-family residential uses in the "TF-3" Duplex Residential district as a Conditional Use provided the maximum density does not exceed 14.5 dwelling units per acre. The applicant is seeking a Conditional Use to permit 9 single-story four-plexes on multiple lots (36 dwelling units, located on both sides of Madison Avenue, between 9th and 10th Streets) that are currently zoned "TF-3" Duplex Residential. A four-plex residence is considered Multi-family Residential, triggering the need for the Conditional Use since multi-family uses are not a use permitted "by right" in the "TF-3" district. As proposed there will be 11.46 dwelling units per acre.

The character of the surrounding area is mostly single story, single-family residential, with some vacant lots and a few boarded up houses. The site has what appears to have been the largest grouping of duplexes (approximately 11 units built in the mid 1940s) in the area. The duplexes have been boarded up, as have the fewer single-family residences, on both sides of Madison, between 9th & 10th, which is the proposed site for the applicant's Conditional Use. All these residential structures will be demolished to allow the proposed redevelopment. Most of the area's housing appears to have been built in the mid 1940s, with a very few being built from the late 1920s to the mid 1930s. The proposed four-plexes will be the first grouping of this scale (both sides of Madison, between 9th & 10th) of residential redevelopment in the area in perhaps 40-years. The Samuel Spaght Accelerated Magnet Elementary School, Spruce Public Park, the KU Medical School – Medical facilities and the Urban League of Wichita facility are all within a block to 3 blocks of the site. Surrounding properties around the subject site are zoned "TF-3" Duplex Residential, with some "LC" Limited Commercial zoned sites (small free standing commercial with vacancies) around the Grove – 9th Streets' intersection, one block east of the site, and "B" Multi-family Residential zoning (mostly single-family residential) one block west of the site. There is also a "GO" zoning lot that is paved parking.

The applicant's site plan shows both sides of Madison, between 9th and 10th, redeveloped as four-plexes, a clubhouse, a community building, a playground and a sports court. Paved parking is in the 20-foot rear yard of the "TF-3" zoned four-plexes, with access being security gated 25-foot private drives, running between the units and the parking. The private drives are each over 400 uninterrupted feet long and should be broken up to slow down traffic. This is a public safety issue, especially in regards to the site plan showing abutting playground and a sport court. Parking abuts undeveloped, over grown platted 10-foot wide alleys, which separates the proposed four-plexes from the mostly single-family residential development to the east and west of them. A screening wall is shown on the west parking, but not on the east parking for the four-plexes and the community building. No solid screening is shown around the dumpsters along 10th Street or at the south end of the four-plex parking on the east side, which is a requirement. Consideration for vehicular and pedestrian traffic could reduce the height of the required solid screening. Additional landscaping is needed for the units' east parking and the community building. The site plan also shows sidewalks along both sides of Madison and a fence around the playground and sports court, but no proposed lighting. Development of the site will require compliance with all required zoning, landscaping, screening/buffering, code, permits and inspections.

CASE HISTORY: The site is part of the Solomon's 2nd Addition, which was recorded with the Register of Deeds April 22, 1910. VAC2006-34, vacation of a portion a platted alley, is associated with this case.

ADJACENT ZONING AND LAND USE:

NORTH: "TF-3"	Single-family residences, vacant lots
SOUTH: "TF-3"	Single-family residences, vacant lots
EAST: "TF-3", "GO"	Single-family residences, vacant lots, parking
WEST: "TF-3"	Single-family residences, church, vacant lots

PUBLIC SERVICES: Public services are available. 9th Street at this location is classified as an urban collector. Madison Avenue and 10th Street are local streets.

CONFORMANCE TO PLANS/POLICIES: The "Wichita Functional Land Use Guide Map" depicts the site as appropriate for "urban residential", which reflects the full diversity of residential development densities found in a large urban municipality. The proposed four-plexes, as a Conditional Use to permit multi-family residential development in "TF-3" zoning conforms to the plan. The site is also located within the "Central Northeast Area Plan", which has as a stated strategy the development of new rental property in the area as part of the overall goal of improving the housing stock for this area, which is one of the most economically distressed areas in the city. The proposed Conditional Use of four-plexes with the playground, sports court, clubhouse and community center conforms to the plan and its stated goals, especially when it is coupled with Mennonite Housing's Executive Summary of the site.

The "TF-3" Two-family Residential zoning is intended to accommodate moderate-density single-family and duplex residential development, as well as very limited density multi-family development and other complementary land uses. Minimum lot size for duplex units is 3,000 square feet per dwelling unit or 6,000 square feet per duplex unit.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the following conditions:

- A. The maximum number of dwelling units allowed on the site shall be no more than 9 four-plexes, plus a clubhouse, a community center, a playground and a sports court.
- B. The site shall be developed in general conformance with the approved site plan, including sidewalks, an approved landscape plan, solid screening between the site and the adjacent residences, solid screening with gates around all dumpster, an approved private drive design, any proposed pole lighting to be no taller than 14-foot and directed onto the site away from the adjacent residences and any other applicable development requirements.
- C. If the Zoning Administrator finds that there is a violation of any of the conditions of approval of this Conditional Use, the Zoning Administrator with the concurrence of the Planning Director may, in addition to enforcing any remedies set forth in Article VIII of the Unified Zoning Code, declare the Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Surrounding property is zoned "TF-3". Development is mostly single-family residences, generally built in the mid 1940s, with scattered vacant lots and empty houses.
2. The suitability of the subject property for the uses to which it has been restricted: The site could be developed as currently zoned, as either duplexes or single-family residences.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of the request should not detrimentally affect nearby property to any significant degree. If this request is approved it would represent the first major residential development in the area in perhaps 40-years.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The proposal is consistent with the adopted "Central Northeast Area Plan" in goal of infill development and reinvestment in the area's housing. The "Wichita Functional Land Use Guide Map" depicts the site as appropriate for "urban residential", which reflects the full diversity of residential development densities found in a large urban municipality and to which the request conforms to.
5. Impact of the proposed development on community facilities: Traffic on existing residential street will increase, however existing facilities are in place to accommodate increased traffic. Other community services are available.

MOTION: To approve subject to staff recommendations.

JOHNSON moved, **HENTZEN** seconded the motion, and it carried (12-0).

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9. **Case No.: DER2006-14** -Request Amendment to the April 19, 2001 Edition of the Wichita-Sedgwick County Unified Zoning Code to: define "rodeo" as a specific land use; identify zoning districts where rodeos may be allowed and establish other minimum regulations regarding, but not limited to, maintenance, treatment and storage of animals; noise; hours of operations; minimum lot size; minimum separation distance from residential zoning or uses. Generally located All Districts

DALE MILLER, Planning Staff, presented the staff report. He stated that Kurt Schroeder - OCI, Sharon Dickgrafe - City Law Department, and Bob Parnacott - County Law Department, were also present to answer questions concerning the proposed amendment to the Unified Zoning Code (UZO).

MILLER commented that the "draft" being presented discussed potential ways to address issues that have come up concerning outdoor rodeos. He said, currently the UZC does not have "rodeo" listed as a particular use. He said it could be addressed under several options including: Recreation/Entertainment, Indoor; Recreation/Entertainment, Outdoor; and Riding Academy or Stable. He referred MAPC member to the proposed Supplemental Use Regulations and briefly reviewed each provision. He said the suggestion is to create a category called "Rodeo in the City" (and not Sedgwick County).

Tape 1 side 2

JOHN SCHLEGEL requested clarification on outdoor storage or penning of animals, and asked if that referred to a permanent or temporary arrangement?

MILLER explained that the committee discussed penning requirements for short-term events. He said OCI's interpretation was that type of event would not require a conditional use permit. He said Staff also tried to define "short-term penning activity", to be several nights a week, for a few hours each night. He said if the activity occurred for more than 2 nights, then it would be considered more of a permanent situation.

ALDRICH asked about the noise level, how that was determined and collection and disposal of animal waste?

MILLER said items #1-7 attempted to address these situations. In addition, he said #3, referred to the standard City Code and Chapter 6.04, which was handled through the City's Environmental Services Department. He commented that Chapter 6.04 addressed issues such as food storage, how waste is handled, etc.

ALDRICH asked about the rules on waste collection and removal.

DON HENRY City Environmental Services, stated that the City Code doesn't specifically address each issue; however, it does state that waste can't be allowed to accumulate. He said in addition, applicants have to provide a plan to be reviewed and approved by City staff.

ALDRICH said he felt that was pretty vague, and requested that the issue be "spelled out". He commented that now was the time to address these issues.

HENRY explained that there was an ordinance on animals, and that they usually deal with issues on a case-by-case basis. He said so far, that has not been a problem.

SHARON DICKRAFE – mentioned that in addition to the ordinances, there is a City licensing procedure where many of these issues are addressed under the "operational expectations" of the licensee.

GISICK asked if a business were open more than two days, would they be able to comply with the "all-year-round rodeo" provisions under the new zoning.

MILLER responded yes, particularly if the activity is held indoor and doesn't last more than 2 days.

BISHOP requested clarification on the re-wording of Item #11 on outdoor rodeos within the City of Wichita.

MILLER commented that rodeos held on property owned by the City of Wichita or Sedgwick County were exempt from certain provisions of the proposed ordinance.

Responding to a question from **ALDRICH**, **MILLER** explained that the definition of indoor rodeo was contained in the proposed language.

CARY BORNEMAN, 7251 East Farm Road, #156, Rogers, MO - said his company has provided "club rodeos", which are a sanctioned rodeo event in nightclubs in Springfield, MO., Oklahoma City, OK. and Lubbock, TX. He said they provide a 60' x 60' enclosed area, 6-7 riders, clowns and judges, and put on shows each hour which last approximately twelve minutes each. He said they have two issues with the proposed ordinance. He said the time limit of being finished by midnight would create a problem, since most nightclubs don't really get going until 11:00 pm. He said the other issue was they didn't feel it was a good idea to enclose the bulls in a building because of heat, vermin and other issues. He said they provide an outdoor 25' x 75' pen with gates. He said this also adds excitement to the event because nightclub patrons can see the bulls when they arrive. He said the bulls are usually housed in the area for a total of about ten hours per week. He said they haven't had any problems with waste buildup.

JOHN SCHLEGEL asked if Mr. Borneman had any specific suggestions for changes to the proposed UZC.

BORNEMAN suggested adding wording regarding "staging" animals for the event. He also asked if the time limit could be bumped up to 1:00 am.

HENTZEN asked if a conditional use permit would be required to bring animals in under the current definition of indoor rodeo.

KURT SCHROEDER suggested that staff develop a better definition of event "staging" including temporary animal storage in either trailers or pens; and add wording on hours of operation.

HENTZEN mentioned attending the "Dixie Stampede" show and remarked that apparently they have answered all these questions regarding staging and other issues. He said he felt this was an opportunity for Wichita to come into the 21st Century.

SCHROEDER said staff researched how other City's deal with rodeos and these types of special events and used those guidelines in this proposal. He also suggested that certain types of large "one time events" could be exempted from some of the ordinance provisions, if they went through the "Community Event Process".

MARNELL asked about a time line on the proposed revision?

DICKGRAFE indicated that the client wanted to get moving on their contract, plus the 6-month moratorium imposed by the City Council was almost up. She suggested an ending time of 1:00 am and that staff better define outdoor storage and perhaps enforce a time period on outdoor storage of no more than twelve hours.

MOTION: To recommend approval of the proposal to include changes suggested at today's meeting regarding hours of operation and ending time and staging.

ALDRICH moved, **HILLMAN** seconded the motion, and it carried (10-0).

The Metropolitan Area Planning Department informally adjourned at 3:55 pm

State of Kansas)
Sedgwick County) ^{ss}

I, John L. Schlegel, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on _____, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this _____ day of _____, 2006.

John L. Schlegel, Secretary
Wichita-Sedgwick County Metropolitan
Area Planning Commission

(SEAL)